



BOX: TTAB/FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 76/491,640 – RAPID TRANSPORT  
Published: September 30, 2003.

CORDIS CORPORATION,

Opposer,

v.

NMT MEDICAL, INC.,

Applicant.

Opposition No. \_\_\_\_\_



02-26-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

**NOTICE OF OPPOSITION**

CORDIS CORPORATION, a Florida corporation, having a principal place of business at 14201 N.W. 60<sup>th</sup> Avenue, Miami Lakes, Florida 33014 (“Opposer”), believes that it will be damaged by the registration of the mark shown in application Serial No. 76/491,640 – RAPID TRANSPORT for “medical devices, namely, septal occluders and delivery catheters” in class 10; filed February 19, 2003 by NMT Medical, Inc., a Delaware corporation, having an address at 27 Wormwood Street, Boston, Massachusetts (“Applicant”); and hereby opposes the same pursuant to §13 of the Trademark Act of 1946 (15 U.S.C. §1063).

As grounds for opposition, Opposer alleges that:

1. Opposer has continuously used the trademark RAPIDTRANSIT since at least as early as June 23, 1995 in connection with medical catheters.
2. Opposer is the owner of Reg. No. 2,135,959 – RAPIDTRANSIT for medical catheters, which registered February 10, 1998. A copy of the registration is attached as Exhibit

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FILED BY COURIER  
February 26, 2004

3. Applicant seeks to register its RAPID TRANSPORT mark for use in connection with goods that are identical to and otherwise closely related to those with which the Opposer uses its RAPIDTRANSIT mark.

4. The goods on which Opposer uses its RAPIDTRANSIT mark and the goods for which Applicant seeks to register its RAPID TRANSPORT mark may be sold through the same channels of trade and to the same class of purchasers.

5. Opposer's RAPIDTRANSIT mark and Applicant's RAPID TRANSPORT mark are nearly identical in appearance, sound and commercial impression.

6. On information and belief, Applicant has not used the RAPID TRANSPORT mark in interstate commerce in connection with the goods identified in application Serial No. 76/491,640 as of the February 19, 2003 filing date of the application.

7. The use and registration by Applicant of the RAPID TRANSPORT mark for the goods identified in application Serial No. 76/491,640 will be likely to cause confusion, mistake or deception by having the public erroneously assume or believe that the goods emanate from Opposer, or are in some other way associated or connected with Opposer's use of RAPIDTRANSIT for a medical catheters, all to Opposer's irreparable damage.

8. The use and registration by the Applicant of the RAPID TRANSPORT mark for the goods identified in Serial No. 76/491,640 are likely to dilute, diminish and damage the distinctive quality of Opposer's RAPIDTRANSIT mark, to Opposer's irreparable damage.

For the reasons set forth in paragraphs 1-8, Opposer believes and believing asserts that it will be damaged by the registration of application Serial No. 76/491,640. Accordingly, Opposer prays that this Opposition be sustained, and that Applicant be refused registration of the RAPID TRANSPORT mark for the goods set forth in application Serial No. 76/491,640.

This notice is filed in duplicate, accompanied by a check in payment of the \$300.00 filing fee. Should additional fees be required, please charge them to the deposit account of Drinker Biddle & Reath, No. 50-0573.

Respectfully submitted,

CORDIS CORPORATION

By: Mary Pat Weyback

Norm D. St. Landau

Mary Pat Weyback

Drinker Biddle & Reath LLP

1500 K Street, N.W., Suite 1100

Washington D.C. 20005-1209

Tel.: (202) 842-8800

Fax: (202) 842-8465

**Int. Cl.: 10**

**Prior U.S. Cls.: 26, 39 and 44**

**Reg. No. 2,135,959**

**United States Patent and Trademark Office**

**Registered Feb. 10, 1998**

**TRADEMARK  
PRINCIPAL REGISTER**

**RAPIDTRANSIT**

**CORDIS CORPORATION (FLORIDA CORPORATION)  
14201 N.W. 60TH AVENUE  
MIAMI LAKES, FL 33014**

**FOR: MEDICAL CATHETERS, IN CLASS 10  
(U.S. CLS. 26, 39 AND 44).**

**FIRST USE 6-23-1995; IN COMMERCE  
6-23-1995.**

**OWNER OF U.S. REG. NO. 1,902,160.**

**SER. NO. 75-264,047, FILED 3-26-1997.**

**JOYCE A. WARD, EXAMINING ATTORNEY**

**EXHIBIT A**

**\*\* TOTAL PAGE.02 \*\***